



**Ninety-Ninth Legislature - First Session - 2005**  
**Committee Statement**  
**LB 722**

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**Hearing Date:** February 9, 2005  
**Committee On:** Natural Resources

**Introducer(s):** (Schrock)  
**Title:** Provide for use of public power infrastructure

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**Roll Call Vote – Final Committee Action:**

Advanced to General File  
X Advanced to General File with Amendments  
Indefinitely Postponed

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**Vote Results:**

8	Yes	Senators Hudkins, Kopplin, Kremer, Louden, McDonald, Schrock, Smith, Stuhr
0	No	
0	Present, not voting	
0	Absent	

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**Proponents:**

Senator Ed Schrock  
Bill Fehrman

Stephen Bruckner  
Chris Dibbern  
Richard Hedrick

**Opponents:**

Curt Bromm

Bob Mitchell  
Roger Devillier  
Rex Fisher  
Randy Sandman

Rob Logsdon  
Ron Sedlacek  
Bill Ashburn

**Neutral:**

Jerry Vap

**Representing:**

Introducer  
Nebraska Power Association; Nebraska Public Power District  
Omaha Public Power District  
Nebraska Municipal Power Pool  
Self

**Representing:**

Nebraska Telephone Association; Nebraska Cable Communications Association  
Nebraska Section of ARRL  
Amateur Radio  
Qwest  
Nebraska Telecommunications Association; Diller Telephone Company  
Cox Communications, Inc.  
Nebraska Chamber of Commerce and Industry  
Alltel

**Representing:**

Public Service Commission

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**Summary of purpose and/or changes:**

LB 722 does the following:

- Section 1      Definitional
- (1) Broadband service – a digital service having the capability of supporting a speed or bandwidth in excess of 200 kilobits per second;
  - (2) Electric utility infrastructure – any poles, structures, duct lines, conduit, power lines or other facilities or equipment used or useful to transmit or distribute electric energy;
  - (3) Information service facility – any equipment, structure or material used or useful in providing broadband service;
  - (4) Public power supplier – public power district, a public power and irrigation district, a municipality, a registered group of municipalities, an electric cooperative, an electric membership association, a joint entity formed under the Interlocal Cooperative Act, a joint public entity formed under the Joint Public Agency Act, an agency formed under the Municipal Cooperative Financing Act, or any other governmental agency providing electric service; and
  - (5) Utility information services - meter reading, outage detection, demand-side management, and other information services related to supplying electric service that may be provided using the electric utility infrastructure or information service facilities of a public power supplier.
- Section 2      (1) Allows any public power supplier to use its infrastructure to provide utility information services for a fee or charge to its customers in connection with providing utility information services or electric service to its customers; and  
(2) Allows any public power supplier to lease, license or enter into any agreement for a fee or charge to use the public power supplier's electric utility infrastructure or information service facilities to provide broadband service to customers of the public power supplier.
- Section 3      All activities listed in section 2 of this act shall be governed by the governing body of the public power supplier.
- Section 4      Requires liberal construction of the act.
- Section 5      Assigns sections 1 through 4 to be codified within Chapter 70 of the Nebraska statutes.
- Section 6      Severability clause.

**Explanation of amendments, if any:**

The Committee amendment does the following:

Strikes the original sections of the bill and inserts the following new sections:

- Section 1 Legislative finding regarding existing conflicts among telecommunication companies, cable television companies and public power regarding access to the providing of advanced telecommunications and information services to all regions of the state, and identifies the issues that need to be examined:
- (1) An assessment of the extent and availability of public power infrastructure in the state and an evaluation of how such infrastructure could be utilized to enhance the provision of high speed broadband services and satellite services to consumers and businesses and the feasibility of using such technology in all regions of the state;
  - (2) An assessment of the potential harm to private telecommunications companies and cable television companies if such high speed broadband over power lines would be permitted in the state;
  - (3) A determination of how a level playing field could be established for competing interests in providing broadband over power lines service if that service is feasible; and
  - (4) An evaluation of statutory and regulatory frameworks of other states' publicly-owned utilities as they relate to providing high speed broadband access over power lines.

Identifies that in order to address these issues and to promote access to advanced telecommunications and information services in accordance with the principles stated in section 86-323 (2) regarding universal service, the Governor shall appoint a Public Infrastructure Utilization Task Force.

- Section 2 (1) Identifies the twenty members of the task force that are to be appointed by the Governor. These representatives include representatives of the telecommunications industry, representatives of the public power industry, representatives of the cable television industry, representatives of health care, representatives of education, a representative of law enforcement, representatives of the public at-large, a representative of the Department of Administrative Services and a representative of the Department of Economic Development.
- (2) Identifies four additional members of the task force that are to be selected by the Public Service Commission, the Auditor of Public Accounts, the Natural Resources Committee and the Transportation and Telecommunications Committee.

Requires that all of the appointments and selections of members of the task force be made within thirty days of the effective date of the act.

- Section 3 Requires the Natural Resources Committee and the Transportation and Telecommunications Committee on behalf of the task force to contract with a facilitator to conduct the meetings.

- Section 4 Identifies the twelve members of the executive committee to include representatives of the telecommunications industry, the cable television industry,

the public power industry, the public-at-large, the Department of Administrative Services, the Department of Economic Development, law enforcement, the Public Service Commission and the Legislature.

Requires the executive committee to develop the operating rules of the task force, and for developing proposals and recommendations to be considered by the entire task force.

- Section 5 Requires the task force to meet at least four times annually, and additional times if the executive committee believes it is necessary, to accomplish the goals set forth in the act.
- Section 6 Requires the task force to discuss the issues raised in section 1, identify options for resolution of such issues, and make recommendations to the Legislature and the Governor relating to any policy changes the task force deems desirable. Requires the task force to submit a preliminary report six months after its first meeting, and a final report on or before December 31, 2006, which is the date the task force must conclude its work.
- Section 7 Creates the Public Infrastructure Utilization Task Force Cash Fund. It instructs the State Treasurer to transfer \$250,000.00 from the Nebraska Telecommunications Universal Service Fund to the Public Infrastructure Utilization Task Force Cash Fund within five days of the effective date of this act. Allows an additional transfer of up to \$100,000.00 from the Nebraska Telecommunications Universal Service Fund to the Public Infrastructure Utilization Task Force Cash Fund if requested by the Public Infrastructure Utilization Task Force. It limits the amount that can be expended by the task force to \$350,000.00.
- Section 8 Prohibits any political subdivision from providing any high-speed broadband over power lines service for a fee, except as necessary or incident to the generation, transmission or distribution of electricity until July 1, 2007.
- Section 9 States that the State Treasurer shall transfer funds as required under section 7 of this act.
- Section 10 Provides definitions of broadband service, electric utility infrastructure, information service facility, public power supplier, and utility information services.
- Section 11 Allows any public power supplier to use any electric utility infrastructure or information service facility to provide utility information services for a fee or charge to its customers and to install, own, operate, maintain and use information service facilities in connection with providing utility information services or electric service to its customers.

- Section 12 States that any service provided by a public power supplier shall be governed and regulated solely by the governing body of the public power supplier.
- Section 13 Requires the act to be liberally construed, and states that they are independent of and supplemental to any other applicable provisions of law, petition for creation or charter.
- Section 14 Requires the Revisor of Statutes to assign sections 10 through 13 to Chapter 70.
- Section 15 Severability clause.
- Section 16 Repealer.

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**Senator Ed Schrock, Chairperson**